

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

CESAR RODRIGUEZ,
Petitioner,

v.

LORIE DAVIS,
Respondent.


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EP-20-CV-19-DB

ORDER

Cesar Rodriguez, state prisoner number 1526147, moves the Court to compel the Eighth Court of Appeals to withdraw a mandate issued in his state criminal case on May 28, 2010. Pet'r's Mot., ECF No. 17. *See Rodriguez v. State*, No. 08-08-00223-CR, 2010 WL 2163848 (Tex. App.—El Paso May 28, 2010, pet. ref'd). The Court construes Rodriguez's pleading as a petition for a writ of mandamus. *See Hernandez v. Thaler*, 630 F.3d 420, 426–27 (5th Cir. 2011) (“It is the substance of the relief sought by a *pro se* pleading, not the label that the petitioner has attached to it, that determines the true nature and operative effect of a . . . filing.”). “[A] federal court lacks the general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties where mandamus is the only relief sought.” *Cross v. Thaler*, 356 F. App'x 724, 725 (5th Cir. 2009) (quoting *Moye v. Clerk, DeKalb Cty. Superior Court*, 474 F.2d 1275, 1276 (5th Cir. 1973)). The Court therefore concludes it lacks the authority to compel the Eighth Court of Appeals to recall a mandate. Accordingly, Rodriguez's petition (ECF No. 17) is **DENIED**.

SIGNED this 25th day of June 2020.



DAVID BRIONES
SENIOR UNITED STATES DISTRICT JUDGE